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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DISTRICT

JOHN GALLUCCI, and ASHLEY
GALLUCCI,

Case No. 3:22-cv-1692

COMPLAINT

Plaintiffs,

v.

DEMAND FOR JURY TRIAL

UNITED STATES POSTAL SERVICE,

Defendant.

INTRODUCTION

1. This is an action for monetary relief to redress the tort action secured to Plaintiffs by the Federal Tort Claims Act.

JURISDICTION

2. Jurisdiction is conferred upon this Court by 39 U.S.C. § 409.

3. Venue is appropriate in the District of Oregon pursuant to 28 U.S.C. § 1391(b)(2) because the claims arose in this judicial district.

PARTIES

4. Plaintiff JOHN GALLUCCI is currently a resident in Clackamas County, Oregon. On November 3, 2020, John Gallucci was the driver of a 2013 Lexus SUV owned by him and his spouse, Ashley Gallucci.

5. Plaintiff ASHLEY GALLUCCI is currently a resident in Clackamas County, Oregon. On November 3, 2020, Ashley Gallucci was the front passenger of a 2013 Lexus SUV owned and operated by her and her spouse, John Gallucci.

6. Defendant United States Postal Service (hereinafter "USPS") is a federal executive agency conducting business within the State of Oregon. While in the course and scope of their employment, an employee/agent of USPS was operating a mail truck on November 3, 2020 at the same time and place as John and Ashley Gallucci traveled in their SUV.

GENERAL ALLEGATIONS

7. At approximately 11:30am, Plaintiffs were in their vehicle headed westbound, and were stopped at a red traffic light on SE Sunnyside Road near the intersection with the I-205 Northbound onramp. At the same time and place, an employee driver of a USPS vehicle was headed the same direction and failed to stop their vehicle before colliding with the rear-end of plaintiffs' vehicle. Plaintiffs were injured in the collision as set forth below.

DEFENANT'S NEGLIGENT CONDUCT

8. A substantial factor and cause of the collision, as described in paragraph seven (7) above, was the direct and foreseeable result of Defendant's negligence in one or more of the following particulars:

- a) In failing to take evasive action to avoid hitting Plaintiffs;
- b) In failing to apply the brakes to avoid hitting Plaintiffs;
- c) In failing to maintain control of it's vehicle;

- d) In failing to keep a proper lookout;
- e) In driving carelessly in violation of ORS 811.135;
- f) In failing to exercise due care as required by ORS 811.005;
- g) In driving recklessly in violation of ORS 811.140;
- h) In recklessly engaging in conduct which created a substantial risk of serious physical injury to Plaintiffs in violation of ORS 163.195;
- i) In failing to follow proper procedures, training, and protocols for delivery drivers;
and
- j) In failing to maintain the vehicle in a proper serviceable condition to drive on the roadways.

JOHN GALLUCCI'S INJURIES

9. As a direct, proximate, and foreseeable result of the negligence and recklessness of Defendant, Plaintiff JOHN GALLUCCI suffered injury to the muscles, nerves, tendons, ligaments, bones and soft tissues of his shoulders, knees, back and hips; decreased range of motion; chest pain; increased blood pressure; headaches; skin burns and abrasions resulting from subsequent care; and sleep disturbance; all of which injuries, and the consequences of them, are or may be permanent and have caused him to suffer non-economic damage in the form of past pain and suffering as well as loss of enjoyment of life and inability to engage in usual activities apart from gainful employment in a reasonable amount to be determined by a jury at trial, but not to exceed \$350,000.

10. As a direct, proximate, and foreseeable result of the negligence of Defendant, Plaintiff JOHN GALLUCCI suffered economic damages consisting of his past and future

medical care expenses in a reasonable amount to be determined by a jury at trial, but not to exceed \$75,000.00.

11. As a direct, proximate, and foreseeable result of the negligence of Defendant, Plaintiff JOHN GALLUCCI suffered economic damages consisting of his past and future wage loss in a reasonable amount to be determined by a jury at trial, but not to exceed \$3,500,000.

ASHLEY GALLUCCI'S INJURIES

12. As a direct, proximate, and foreseeable result of the negligence and recklessness of Defendant, ASHLEY GALLUCCI suffered injury to the muscles, nerves, tendons, ligaments, bones and soft tissues of her shoulders, knees, back and hips; decreased range of motion; and sleep disturbance; all of which injuries, and the consequences of them, are or may be permanent and have caused him to suffer non-economic damage in the form of past pain and suffering as well as loss of enjoyment of life and inability to engage in usual activities apart from gainful employment in a reasonable amount to be determined by a jury at trial, but not to exceed \$150,000.

13. As a direct, proximate, and foreseeable result of the negligence of Defendant, Plaintiff ASHLEY GALLUCCI suffered economic damages consisting of her past and future medical care expenses in a reasonable amount to be determined by a jury at trial, but not to exceed \$25,000.

DEMAND FOR JURY TRIAL

14. Plaintiffs make a demand for a jury trial.

WHEREFORE, plaintiffs pray for judgment against defendant as follows:

(1) For Plaintiff JOHN GALLUCCI's total non-economic damages in an amount to be determined by a jury at trial but not to exceed \$350,000;

- (2) For Plaintiff JOHN GALLUCCI's total economic damages consisting of past and future medical expenses in an amount to be determined by a jury at trial but not to exceed \$75,000.00;
- (3) For Plaintiff JOHN GALLUCCI's total economic damages consisting of past and future wage loss in an amount to be determined by a jury at trial but not to exceed \$3,500,000;
- (4) For Plaintiff ASHLEY GALLUCCI's total non-economic damages in an amount to be determined by a jury at trial but not to exceed \$150,000;
- (5) For Plaintiff ASHLEY GALLUCCI's total economic damages consisting of medical expenses in an amount to be determined by a jury at trial but not to exceed \$25,000.00;
- (6) For Plaintiff's costs and disbursements incurred herein; and
- (7) For such other relief as the court deems just and equitable.

DATED November 2nd, 2022.

CALLAHAN LAW OFFICE, P.C.

By:

/s/ Joshua V. Callahan

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Of Attorneys for Plaintiff

A TRIAL BY JURY IS HEREBY DEMANDED.

Joshua V. Callahan, OSB No. 110853
TRIAL ATTORNEY